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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,295	04/25/2001	Noel Caplice	07039-175001	7824

7590 10/22/2002

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EXAMINER

NAFF, DAVID M

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 10/22/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943295

Applicant(s)

Explicor Corp

Examiner

H. Ruff

Group Art Unit

1651

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 6/4/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-39 is/are pending in the application.
- Of the above claim(s) 38+39 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-37 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4 files 9/12/01
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

In a response of 8/6/02 to a restriction requirement of 7/1/02, applicants elected Group I claims 1-37 without traverse.

Claims 38 and 39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being
5 no allowable generic or linking claim. Election was made without traverse in Paper No. 7.

Claims examined on the merits are 1-37.

The following is a quotation of the first paragraph of 35 U.S.C.

112:

10 The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

15 Claims 1-37 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a device as required by claims 1, 3 and 5 in combination, does not reasonably provide enablement for other substantially different embodiments. The
specification does not enable any person skilled in the art to which it
20 pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

The specification fails to support that the disclosed results can be obtained with a device without structure as required by claims 1, 3 and 5 in combination. The claimed invention must be commensurate in scope with
25 the working examples carried out.

The claims are free of the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone

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number is (703) 308-0520. The examiner can normally be reached on Monday-Thursday and every other Friday from about 8:30 AM to about 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, a message can be left on voice mail.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn, can be reached at telephone number (703) 308-4743.

The fax phone number is (703) 872-9306 before final rejection or (703) 872-9307 after final rejection.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

15

DMN
10/21/02


DAVID M. NAFF
PRIMARY EXAMINER
ART UNIT 12857